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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/801,140	03/06/2001	Robert Olan Keith JR.	ABREAU-00106	6018
28960	7590	08/03/2005	EXAMINER	
HAVERSTOCK & OWENS LLP 162 NORTH WOLFE ROAD SUNNYVALE, CA 94086			NGUYEN, CAM LINH T	
			ART UNIT	PAPER NUMBER

2161

DATE MAILED: 08/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/801,140

Applicant(s)

KEITH, ROBERT OLAN

Examiner

CamLinh Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 4 - 11, 14 - 21, 24 - 31, and 34 - 38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4 - 11, 14 - 21, 24 - 31, and 34 - 38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/26/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This Office Action is response to the RCE filed on 6/15/2005.
2. Applicant's amendments to claims 1 – 38 are acknowledged. Consequently, claims 1, 11, 21, 31, have been amended. Claims 2 – 3, 12 – 13, 22 – 23, and 32 – 33 have been canceled. Claims 1, 4 – 11, 14 – 21, 24 – 31, and 34 – 38 are pending.
3. An IDS filed on 6/26/2005 is received and entered.

### ***Double Patenting***

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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5. Claims 1, 4 – 11, 14 – 21, 24 – 31, and 34 – 38 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4 – 15, 17 – 25, 28 – 39, 41 – 49, 52 – 63, 65 – 73, 76 – 87, 89 – 96 of copending Application No. 09/801,138; claims 1 – 49 of copending Application No. 09/801,072; claims 1 – 4, 6 – 15, 18 – 27, 30 – 39, 42 – 51 of copending Application No. 09/801,076; claims 1 – 37 of copending Application No. 09/800,592; claims 1 – 7, 9 – 15, 17 – 23, 25 – 29, 31 – 32 of copending Application No. 09/800, 566; claims 1 – 2, 4- 13, 15 – 24, 26 – 26, 38 – 45 of copending Application No. 09/800,607.

Claims Comparison Table

'140	'076	'138	'072
Claims			
1	1	1	1
'140	'607	'592	'566
Claims			
1	1	1	1

Most limitations in instant application can be found on copending ' 056, '592, '607, '072, '138, '076. For instance:

A query language string limitation is found in the instant applicant but not in other applications. However, other limitations such as "formatting a searchable database", "accessing a node", " or utilizing a search module" can be found in other applications. The query language string is a command string and is not distinct from other command entered by the user. Therefore, the

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Examiner considers the query language string is equivalent with other command that is entered by the user.

Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been prima facie obvious to one with ordinary skill in the art at the time the invention was made to broaden the invention because this provides a wider application of the invention with no additional cost in development.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 6 – 11, 16 – 21, 26 – 31, 36 – 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Witek et al (U.S. 6,253,188) in view of Doan et al (U.S. 6,421,661) further in view of Botto et al (U.S. 5,604,772).

♦ As per claims 1, 11, 21, 31,

Witek teaches a method of accessing information in a searchable database comprising:

- “The searchable database is formatted in a directory tree structure” See Fig. 4, col. 11, lines 20 – 25, col. 18, lines 1 – 32.

- “The directory tree structure includes nodes ... branches” See fig. 4. Each category corresponds to a node. All nodes are linked together.
- “Each related item of data is categorized by a navigation path through the directory tree structure and by one or more parameters” Witek teaches that: “Web sites and associated pages are prepared with HTML and include "links" to other locations and resources on the Web, the links being the features which enables a user, as noted, to "navigate" from one point or information resource to another, thereby, providing the Web with its dynamic character (col. 23, lines 11 – 22.) Therefore, the link corresponds to the path that is used to access to the resource. Witek discloses a method to category documents by identifying the parameters and associated values (col. 50, lines 56 – 67). Based on these values, the document is assigned to a category, and created link to the document.
- “ Each parameter is set with a corresponding value associated with the data item thereby forming a set parameter” see Fig. 3, col. 15, lines 25 – 26, col. 51, lines 1 – 11.
- Users access the directory by a query. The query includes keywords that defined the navigation path. Users access the directory by a query (See Fig. 10, Witek); therefore the navigation path is defined by a query language string.
- “ Manually traversing the navigation path through the directory tree structure to access the node utilizing a selective one or more search methodologies including keyword search, hierarchical search, dichotomous key search, and parametric search, wherein each utilization includes availability of each search” See Fig. 3, element 70, col. 16, lines 27 – 50, Fig. 10, element 144 – 146 of Witek. A user can specify the resource by selecting a

category and set up one or more set parameters as shown in Fig. 10. In other words, the data item is accessed by a navigation path and parameters set.

Witek does not clearly disclose a query language string which is a command string written according to a query language.

However, Doan, on the other hand, discloses a method for accessing a hierarchical database by a query string (col. 6, lines 56 - 65). This query string also is a command string that used to retrieved data from the database (See Fig. 5, col. 14, lines 61 - 67, col. 16, lines 11 - 15).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to apply the teaching of Doan into the invention of Witek because the combination of reduce the translation between data type in the database and reduce the searching time by applying directly the value of data into the database.

The Witek and Doan references fail to disclose the dichotomous key search. However, this method search is a well known in the art. Botto provides an example of it.

Botto teaches that a dichotomous key search is used to search for data in the database 112, wherein the database is a hierarchical database (See Fig. 5, col. 5, lines 26 - 29).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to apply the teaching of Botto into the combination taught above because the combination would reduce the memory access when using binary search, and providing user more search methodologies.

◆ As per claims 6, 16, 26, 36, the combination of Witek and Doan and Botto disclose:

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- “The related data includes one or more of text, graphics, objects, links to other nodes within the directory tree structure” See Fig. 8 – 10, col. 23, lines 44 – 48, col. 24, lines 10 – 16 of Witek.
- ◆ As per claims 7, 17, 27, 37, the combination of Witek and Doan and Botto disclose:
  - “The searchable database is distributed into more than one physical location” See Fig. 1, element 20, col. 9, lines 53 – col. 10, lines 5, col. 25, lines 37 – 44 of Witek.
- ◆ As per claims 8 - 10, 18 – 20, 28 – 30, 38, the combination of Witek and Doan and Botto disclose:
  - “Accessing a nodes is performed by a server” See Fig. 1, 5A, col. 25, lines 13 – 33 of Witek.
  - “Establishing an Internet connection with the server” See Fig. 5a, element 14, 24, col. 21, lines 15 – 20 of Witek.

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 4 – 5, 14 – 15, 24 – 25, 34 – 35, are rejected under 35 U.S.C. 103(a) as being unpatentable over Witek et al (U.S. 6,098,066) in view of Doan et al (U.S. 6,421,661) further in



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view of Botto et al (U.S. 5,604,772) as applied to claims above further in view of Drucker et al (U.S. 6,292,796).

♦ As per claims 4, 14, 24, 34,

Witek/Doan/Botto teaches a method for access information in a specific node, but does not clearly teach how the navigation path is saved as the query string.

However, Drucker, on the other hand, discloses a method for searching document by specify the navigation path, such as selecting subjects, keyword search, etc. as illustrated in Fig. 1 (col. 2 line 31 – 48, Drucker). The access mechanism includes user setup which allows user specify search preferences (col. 6 line 63 – col. 7 line 6, Drucker). Those preferences are saved for later modification (See Fig. 10 – 11, Drucker).

By saving the query or search preferences, Drucker teaches, “the navigation path is saved as query string”. It would have been obvious to one with ordinary skill in the art at the time the invention was made to apply the teaching of Drucker about the saving user preferences into the system of Witek/Doan/Botto, because the system of Drucker provides a great benefits in saving time for users (col. 1 line 56 – 58, Drucker). The combination of Drucker and Witek produces a convenience search engine for users, where user does not familiar with the system and does not have a lot of time for a search query.

♦ As per claims 5,15, 25, 35, the combination system of Witek/Doan/Botto and Drucker discloses:

The user preferences are saved in the system, so when the new data is available, the user is notified (col. 7 line 54 – 59, Drucker). The user does not need to manually traverse the navigation path to search for information.

***Response to Arguments***

10. Applicant's arguments filed 3/25/2005 have been fully considered but they are not persuasive in part.

A ) Applicant argues that the combination of Witek/Doan fail to disclose a dichotomous key search. The arguments have been considered but are moot in view of the new ground(s) of rejection.

B ) Applicant argues that the Witek does not teach performing a search in which for any given searching step, at any location within the database, four different search methodologies are available to be used to perform the search. The Examiner respectfully disagrees.

Applicant only claims that a search module that including four different search methodologies are available when access a node. The applicant does not specify that this node can be any node in any location in the directory tree structure. Applicant also does not clearly claiming that “for any given searching step, at any location within the database, four different search methodologies are available to be used to perform the search” in at least in independent claim 1. Therefore, if the combination of references discloses four different of the methods and the method is available for the search process, then the combination of references still can apply to the invention.

***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CamLinh Nguyen whose telephone number is (571) 272 - 4024. The examiner can normally be reached on Monday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on (571) 272 - 4023. The fax phone number for the organization where this application or proceeding is assigned is 571 - 273 - 8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nguyen, Cam-Linh

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LN

  
MOHAMMAD ALI  
PRIMARY EXAMINER